

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re Terrorist Attacks on September 11, 2001	03-md-1570 (GBD)(SN)
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This document relates to:

Estate of John Patrick O'Neill, Sr., et al. v. The Republic of Iraq, et al., No. 1:04-cv-01076 (GBD)(SN)

Estate of John Patrick O'Neill, Sr., et al. v. Kingdom of Saudi Arabia, et al., No. 1:04-cv-01922 (GBD)(SN)

Jessica DeRubbio, et al. v. Islamic Republic of Iran, No. 1:18-cv-05306 (GBD)(SN)

Horace Morris, et al. v. Islamic Republic of Iran, No. 1:18-cv-05321 (GBD)(SN)

Alexander Jimenez, et al. v. Islamic Republic of Iran, No. 1:18-cv-11875 (GBD) (SN)

Estate of John P. O'Neill, Sr., et al. v. Republic of the Sudan, et al., 1:18-cv-12114 (GBD)(SN)

August Bernaerts, et al. v. Islamic Republic of Iran, No. 1:19-cv-11865 (GBD)(SN)

Justin Strauss, et al. v. Islamic Republic of Iran, 1:22-cv-10823 (GBD)(SN)

Celestine Kone, et al. v. Islamic Republic of Iran, 1:23-cv-05790 (GBD)(SN)

Danielle Kelly, et al. v. Islamic Republic of Iran, et al., No. 1:23-cv-07283 (GBD)(SN)

Gladys Lopez, et al. v. Islamic Republic of Iran, et al., No. 1:23-cv-08305 (GBD)(SN)

Patricia Fennelly, et al. v. Islamic Republic of Iran, No. 1:23-cv-10824 (GBD)(SN)

Mary Jelnek, et al. v. Islamic Republic of Iran, 1:24-cv-05520 (GBD)(SN)

CLERK'S CERTIFICATE OF DEFAULT

I, Daniel Ortiz, Acting Clerk of the United States District Court for the Southern District of New York, do hereby certify that plaintiffs commenced the action entitled *Estate of John Patrick O'Neill, Sr., et al. v. Kingdom of Saudi Arabia, et al.*, No. 1:04-cv-01922 (GBD)(SN) on March 10, 2004 by filing a summons and complaint, and served defendant Republic of the Sudan (“Sudan”) as follows:

Service on Sudan was effectuated pursuant to the Foreign Sovereign Immunities Act, 28 U.S.C. § 1608 *et seq.* by J. Michael McMahon, Clerk of Court for the Southern District of New York, by sending Complaints and Summons to Dr. Mustafa Osman Ismail, Minister of External Relations, by registered mail, return receipt requested, on November 10, 2004. *See* Affidavit of Service filed on October 31, 2014. ECF No. 2905.

I further certify that plaintiffs commenced the action entitled *Estate of John P. O'Neill, Sr., et al. v. Republic of the Sudan, et al.*, 1:18-cv-12114 (GBD)(SN) on December 21, 2018 by filing a summons and complaint, and served defendant Sudan as follows:

As evidenced by letter dated December 19, 2019 from Jared Hess, Attorney Advisor, Overseas Citizens Services, Office of Legal Affairs, United States Department of State, to the Southern District Clerk of Court, service was effectuated on Iran on December 8, 2019, when the U.S. Embassy in Khartoum transmitted the Ministry of Foreign Affairs of the Republic of the Sudan under cover of diplomatic note number 985. *See* Affidavit of Service filed on November 6, 2024 at ECF No. 10512.

I further certify that Plaintiffs filed and served on defendant Sudan Plaintiffs' Consolidated Amended Complaint as to Sudan, with the Court's permission, via the Court's ECF on November 20, 2020, which constituted sufficient service of process by virtue of Sudan's agreement to accept service of the Consolidated Amended Complaint via ECF. ECF Nos. 6521, 6539. The pleadings in both *Estate of John Patrick O'Neill, Sr., et al. v. Kingdom of Saudi Arabia, et al.*, No. 1:04-cv-01922 (GBD)(SN) and *Estate of John P. O'Neill, Sr., et al. v. Republic of the Sudan, et al.*, 1:18-cv-12114 (GBD)(SN) were incorporated into the SCAC by reference, which then became the operative pleading in both cases. *See* ECF No. 6539, n.1. Sudan agreed to accept service through ECF of the SCAC. *See* Transcript of August 5, 2020 Conference, ECF No. 6393 at pp. 33, 34, and 46. Thus, the SCAC was duly served as a result of the ECF filing.

I further certify that on December 1, 2020, without objection from Sudan and with Sudan's consent, the Court authorized a procedure whereby "[a]ny plaintiff who has a claim pending in this MDL [03-MDL-1570] may adopt the [SCAC]" (hereinafter "Notice to

Conform”). ECF No. 6547. “Upon filing a Notice to Conform, the plaintiff’s underlying complaint shall be deemed to include the factual allegations, jurisdictional allegations, and jury trial demand of the SCAC . . . as well as all causes of action specified in the Notice to Conform.” *Id.* “If the underlying complaint of a plaintiff who files a Notice to Conform does not name Sudan as a defendant, the plaintiff shall be deemed to have added Sudan to his or her constituent case through the filing of the Notice to Conform.” *Id.* “Upon service of the Notice to Conform upon the defendant via ECF, the plaintiff’s underlying case to conform to the SCAC . . . shall be deemed to have been served.” *Id.* “Any motion to dismiss or responsive pleading filed by Sudan in response to the SCAC [] shall be deemed applicable to all actions in which a Notice to Conform is filed, regardless of when the Notice to Conform is filed.” *Id.*

I further certify that on April 19, 2023, a Notice to Conform for all Plaintiffs in the Complaints at ECF No. 8702 (*Estate of John P. O’Neill, Sr., et al. v. The Republic of Iraq et. al.*, 1:04-cv-1076 (GBD)(SN)) and ECF No. 1 (individual docket number in *Justin Strauss, et al. v. Islamic Republic of Iran*, 1:22-cv- 10823 (GBD)(SN)) was filed. *See* ECF No. 9029.

I further certify that on July 11, 2023, a Notice to Conform for all Plaintiffs in the Complaint at ECF No. 1 (individual docket number in *Celestine Kone, et al. v. Islamic Republic of Iran*, 1:23-cv-05790 (GBD)(SN)) was filed. *See* ECF No. 9203.

I further certify that on August 7, 2023, a Notice to Conform for all Plaintiffs in the following pleadings: Amended Complaint in *Celestine Kone, et al. v. Islamic Republic of Iran*, 1:23-cv-05790 (GBD)(SN), ECF No. 10 (individual docket number), the Notice of Amendment related to *Jessica DeRubbio, et al. v. Islamic Republic of Iran*, No. 1:18-cv-05306 (GBD)(SN) at ECF No. 9032, the Notice of Amendment related to *Horace Morris, et al. v. Islamic Republic of Iran*, No. 1:18-cv- 05321 (GBD)(SN) at ECF No. 9074, and the Notice of Amendment related to

August Bernaerts, et al. v. Islamic Republic of Iran, No. 1:19-cv-11865 (GBD)(SN) at ECF No. 9260, was filed. *See* ECF No. 9271.

I further certify that on August 31, 2023, a Notice to Conform for all Plaintiffs in the Amended Complaint in *Danielle Kelly, et al. v. Islamic Republic of Iran, et al.*, No. 1:23-cv-07283 (GBD)(SN) at ECF No. 19 (individual docket number) was filed. *See* ECF No. 9315.

I further certify that on November 3, 2023, a Notice to Conform for all Plaintiffs in the Amended Complaint in *Gladys Lopez, et al. v. Islamic Republic of Iran, et al.*, No. 1:23-cv-08305 (GBD)(SN) at ECF No. 12 (individual docket number) was filed. *See* ECF No. 9411.

I further certify that on December 4, 2023, a Notice to Conform for all Plaintiffs in the Notice of Amendment in *Alexander Jimenez, et al. v. Islamic Republic of Iran*, No. 1:18-cv-11875 (GBD) (SN) at ECF No. 9450 was filed. *See* ECF No. 9453.

I further certify that on December 18, 2023, a Notice to Conform for all Plaintiffs in the Complaint in *Patricia Fennelly, et al. v. Islamic Republic of Iran*, No. 1:23-cv-10824 (GBD)(SN) at ECF No. 1 (individual case docket number) was filed. *See* ECF No. 9474.

I further certify that on August 6, 2024, a Notice to Conform for all Plaintiffs in the Complaint in *Mary Jelnek, et al. v. Islamic Republic of Iran*, 1:24-cv-05520 (GBD)(SN) at ECF No. 1 (individual case docket number) was filed. *See* ECF No. 10218.

I further certify that, on August 10, 2023, the United States District Court for the Southern District of New York denied Sudan's motion to dismiss the claims of the Plaintiffs against Sudan. ECF No. 9278. On September 3, 2024, the United States Court of Appeals for the Second Circuit ("Second Circuit") granted Plaintiffs' motion to dismiss Sudan's appeal of the District Court's August 10, 2023 Order (2d Circuit Dkt. No. 23-1308, Doc. No. 78 (Sept. 3, 2024)). On September 24, 2024, the Second Circuit issued a mandate in the form of an

“Amended Judgment” which “ORDERED, ADJUDGED and DECREED” that Sudan’s appeal was dismissed. ECF No. 10394; 2d Circuit Dkt. No. 23-1308, Doc. No. 86 (Sept. 24, 2024).

I further certify that the docket entries in the above captioned cases indicate that Sudan has not filed an answer or otherwise responded to the SCAC within fourteen (14) days of the issuance of the Mandate, as required under Fed. R. Civ. P. 12(a)(4)(A), and the time for Sudan to have done so has now expired. The default of the defendant Sudan is hereby noted in favor of the Plaintiffs in the above-captioned cases.

Dated: New York, New York
_____, 2024

DANIEL ORTIZ,

Acting Clerk of Court

By: _____
Deputy Clerk